

BOARD OF APPEALS CASE NO. 4873

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BEFORE THE

APPLICANT: Edward Bullock

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ZONING HEARING EXAMINER

**REQUEST: Variance to locate a pigeon
pen 13 feet from an adjacent residential
lot; 1016 Rosemont Drive, Joppa**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 11/11/98 & 11/18/98

HEARING DATE: December 28, 1998

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Record: 11/13/98 & 11/20/98

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Edward Bullock, is requesting a variance pursuant to Section 267-26(D)(2) of the Harford County Code to allow a pen for pigeons less than the required fifty (50) feet from an adjacent residential lot line (13 feet existing).

The subject property is located at 1016 Rosemont Avenue, Joppa, Maryland 21085 and is more particularly identified on Tax Map 60, Grid 1E, Parcel 297. The subject parcel consists of 0.778 acres, is presently zoned AG and is located entirely within the Third Election District.

Mr. Edward Bullock appeared and identified himself as the Applicant and owner of the subject property. Mr. Bullock testified that he has cooped pigeons on this property since 1968. The original coop was torn down years ago and he built the present coop at its current location in 1976. His property backs up to a stream and wetland area as do several of the neighboring homes. He testified that in order to build the coop within the required setback he would have to built it on top of the septic system and field leaders. He did not believe the Health Department would allow that. The witness stated that he keeps 80-85 pigeons in the coop and races them fairly regularly. He cleans the coop weekly and uses the pigeon waste as fertilizer in his gardens and lawn. He refuted placing any of this material on neighboring properties. Mr. Bullock did not believe the presence of a coop and racing pigeons on his property at this location had any adverse impact on neighboring uses.

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Mr. Marvin Gunce appeared and testified that he is a neighbor of the Applicant. He stated that he has had no problems with the pigeons or the coop and even helped the Applicant with expenses for awhile.

Mr. Todd Holmberg, another neighbor, testified that he does not object to the coop, its location, or the pigeons. He stated that the Bullock coop is kept clean, odor free and that the pigeons are no problem. The witness testified that only one coop has been used during the 6 1/2 years that he has lived there.

Mr. Norman Beck appeared in support of the Applicant's request. He stated that he has no objections to the coop or the pigeons and further, that he personally enjoys watching them fly and race.

Mr. Robert Swenson and Mr. Kevin Chandler also appeared in support of the Applicant's request. These witnesses both had no objections or complaints regarding the coop or the pigeons.

Mr. Melvin Quick, Jr. Appeared in opposition to the request. Mr. Quick is an adjoining property owner to the rear of the Bullock property. He generally complained about dirt which the Applicant allegedly placed on his property. As to the pigeons, Mr. Quick stated that in the past, Mr. Bullock would throw shingles in the air to make the pigeons fly and that many of these found their way to his property. The Applicant testified that, in the past, this was true but that he no longer threw shingles to induce flying. Mr. Quick had a number of other complaints regarding Mr. Bullock and it was clear to the Hearing Examiner that the Applicant and Mr. Quick had been at odds for some time. However, Mr. Quick was unable to articulate any real impacts to his property as a result of the present location of the coop. In fact, if Mr. Bullock were to move the coop into the septic area, it would actually be closer to the Quick property than it is today.

The Department of Planning and Zoning recommends approval of the requested variance.

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CONCLUSION:

Section 267-26(D)(2) provides:

Pens, stalls or runs for animals shall not be located within fifty (50) feet of any adjacent residential lot line. Kennels shall be permitted only as special exceptions.

The Harford County Code, pursuant to Section 267-11 permits area variances provided the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.

The Hearing Examiner points out from the onset that the cooping of pigeons in an AG District is a permitted use. The issue in the case is the location of the existing coop. There was adequate testimony regarding the shape and size of the lot and the location of the septic field and drain fields for the Hearing Examiner to conclude that the property is unique. According to the witness and the Department of Planning and Zoning, in order to meet the setback requirements, the coop would have to be located within the septic area and would likely not be approved by the County Health Department. Further, the neighbors testified that this coop has been at its present location for many years and has presented no objectionable impacts to any of their properties. Even the protesting witness, Mr. Quick, was unable to testify to any adverse impacts associated with the present location of the coop.

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For the foregoing reasons, the Hearing Examiner recommends approval of the requested variance subject to the following conditions:

1. The Applicant obtain the necessary permits and inspections for the existing coop.
2. That the variance be for the use of the Applicant only and not extend to subsequent property owners and, should the property be sold or otherwise transferred, the coop be removed.

Date JANUARY 26, 1999

William F. Casey
Zoning Hearing Examiner